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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,479	09/23/2003	Laurent C. Bissonnette	20002.0327	9070

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BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON, DC 20006

EXAMINER

HSU, RYAN

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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11/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,479

Applicant(s)

BISSENETTE, LAURENT C.

Examiner

Ryan Hsu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/4/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the amendments filed on 9/4/07, claims 1, 5-7, 12, and 14-15 have been amended and claims 24-28 have been newly added. Claims 1-18 and 24-28 are pending in the current application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (US 5,342,054) and McTeigue et al. (US 5,372,365) and in further view of Nesbit et al. (US 6,983,637 B2).

Regarding claims 1 and 24, Chang et al. teaches an imaging system for determining the kinematics of an object, comprising: an trigger (*see sensor array [20,22] of Fig. 1 and the related description thereof*); and a camera operatively connected to a trigger to capture optical images of one or more objects (*see camera 26, 28, and 30 of Fig. 1 and the related description thereof*). Furthermore, Chang teaches of a computing device that determines the position and velocity for the object based on the output from the receiver and is capable of calculating a dwell time for consecutive optical images (*see Figs. 1-2 and the respective related descriptions thereof*). However, Chang et al. is silent with respect to a trigger that uses ultrasonic waveforms.

In a related golfing system patent, McTeigue et al. teaches that convenient methods of transmission devices to communicate user signals (*ie: a trigger*) may take the form of analogue or digital signals by means of radio frequency or other electromagnetic wave forms, e.g. infrared or ultrasonic transmitters and receivers (*see col. 10: ln 25-56*). As McTeigue teaches that the communication of use signals can take the form of electromagnetic wave, e.g. infra-red or ultrasonic; could be used (*see col. 10: ln 15-30*). Therefore one would be motivated to implement an ultrasonic device as a common triggering device alternative, it would have only taken one of routine skill in the art to recognize its equivalence to that of the sensor array taught in Chang, Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reference of Chang with that of McTeigue to incorporate an art recognized equivalent into the triggering device to form an ultrasonic trigger instead of the disclosed sensor array of Chang. However, McTeigue and Chang suggest the use of and equivalence of an ultrasonic trigger with that of the infra-red and optical triggers, but does not specifically teach of an embodiment that uses an ultrasonic trigger.

In an analogous golf system, Nesbit teaches an apparatus that evaluates and images golf club heads. Specifically Nesbit teaches the imaging system to be initiated by an ultrasonic trigger. This occurs when the ball is passed by or through the sensor which then initiates the computing process to collect the data, much as how the optical sensors of Chang are use to signal and initiate the data necessary to produce the kinematics of an object (*see col. 6: ln 33-40*). One would be motivated to incorporate the features of an ultrasonic sensor as it is an effective means of communicating user signals as is already well taught in the art (*see McTeigue, col. 10: ln 15-40*). Therefore it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to incorporate the teachings of Nesbit with that of McTeigue and Chang in order to produce a golf practice apparatus that provides recording and instant playback of a video image of a golfer's swing being initiated by an ultrasonic trigger.

Regarding claims 12, Chang et al. teaches a system for simultaneously measuring golf club properties and golf ball properties during a golfer's striking of a golf ball, the system comprising: a first camera and a second camera, each of the first and second cameras focused towards a predetermined field of view (*see camera [28, 30] of Fig. 1 and the related description thereof*); a golf club having at least one optical marker; a golf ball within the predetermined field of view (*see Fig. 1 and the related description thereof*); and a trigger that emits waves along a path of a golf club swing, the trigger capable of estimating the golf club speed (*see Fig. 7 and the related description thereof*). Furthermore, Chang teaches wherein the first and second cameras capture optical images of at least one of the golf ball and golf club based on the estimated golf club speed (*see col. 7: ln 1-15*). However, Chang et al. is silent with respect to a trigger that uses ultrasonic waveforms.

In a related golfing system patent, McTeigue et al. teaches that convenient methods of transmission devices to communicate user signals (*ie: a trigger*) may take the form of analogue or digital signals by means of radio frequency or other electromagnetic wave forms, e.g. infrared or ultrasonic transmitters and receivers (*see col. 10: ln 25-56*). As McTeigue teaches that one would be motivated to implement an ultrasonic device as a common triggering device alternative, it would have only taken one of routine skill in the art to recognize its equivalence to that of the sensor array taught in Chang, Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reference of Chang with that of

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McTeigue to incorporate an art recognized equivalent into the triggering device to form an ultrasonic trigger instead of the disclosed sensor array of Chang.

In an analogous golf system, Nesbit teaches an apparatus that evaluates and images golf club heads. Specifically Nesbit teaches the imaging system to be initiated by an ultrasonic trigger. This occurs when the ball is passed by or through the sensor which then initiates the computing process to collect the data, much as how the optical sensors of Chang are use to signal and initiate the data necessary to produce the kinematics of an object (*see col. 6: ln 33-40*). One would be motivated to incorporate the features of an ultrasonic sensor as it is an effective means of communicating user signals as is already well taught in the art (*see McTeigue, col. 10: ln 15-40*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Nesbit with that of McTeigue and Chang in order to produce a golf practice apparatus that provides recording and instant playback of a video image of a golfer's swing being initiated by an ultrasonic trigger.

Regarding claim 2, Chang et al. teaches an imaging device wherein the object comprises at least one of a golf ball and a golf club (*see golf ball [102(a-b) and 100(a-b)] of Fig. 7 and the related description thereof*).

Regarding claims 3-4, 9-10, 13, 17-18, and 27-28, McTeigue et al. teaches a method wherein the frequency of the ultrasonic sounds waves is between 10 and 500 KHz as this is inherent with any ultrasonic device since this is the optimum range in which ultrasonic sound waves travel (*further evidenced by Wikipedia's Ultrasound*). Additionally, McTeague's ultrasonic transmissions inherently comprise sound waves that have periodic pulses that in order to be classified as 'ultrasonic' have a periodic duration of between about 10 and 5000

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microseconds. As a periodic pulse is the time in which it takes a waveform to travel from peak to peak. This is calculated using the basic physic formula to determine frequency which is $f = 1/T$ [period]. A simple translation of the frequency range that derives the ultrasound bandwidth would derive a period pulse in the range required by the applicant's invention.

Regarding claims 5-7, 14-15, and 25-26, McTeigue et al. teaches an ultrasonic imaging method however is silent with respect to an area of sonification having a diameter between about six inches and about two feet and beam angle that is between 1 and about 30 degrees. It is well known in the art that the propagation of waves deteriorates over a certain distance and degrees. As is with most wave emitting devices they radiate the signal in a circular shape. As the farther a wave propagates the farther from the original source the weaker the signal becomes. In the art of sound imaging in order to produce a useable image a certain optimal range must be kept in order to produce an effective result. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to limit the use of the imaging device to the discovered effective range of the invention (*ie: 1 and about 30 degrees and 5 and about 15 degrees*). Furthermore, it has been held that discovering optimum ranges and values of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 8, 11, and 16, McTeigue et al. teaches a ultrasonic device that inherently emits sound waves periodically (*see col. 10: ln 25-56*). Additionally, McTeigue teaches a periodic sound wave that comprises pulses, wherein the time period between the pulses is greater than or equal to twice the distance from the ultrasonic trigger to a target area (*see col. 10: ln 25-56*).

Response to Arguments

Applicant's arguments filed 9/4/07 have been fully considered but they are not persuasive. Applicant's representative argues that Chang's system and McTeigue's system fail to teach or suggest an ultrasonic sensor or trigger. The Examiner respectfully disagrees. Chang has been used to teach the current state of the golfing imaging systems. As stated by the applicant's representative Chang's system uses a mixture of photodetectors [20] and [22]. However, McTeigue is relied upon for the teaching that in the communication of user signals or "triggering" can utilize infrared or ultrasonic as well. The use of ultrasonic sensors is thereby well known in the art and would have been obvious to one of ordinary skill in the art to interchange the use of photodetectors with that of an ultrasonic sensor as a trigger device in Chang. However, the applicant denies that such a rational would exist by the prior art of record. Thus the Examiner has introduced Nesbit to teach a triggering device that uses ultrasonic sensors to initiate a circuit in a golfing apparatus. Thus it would have been obvious to incorporate the features of a ultrasonic trigger into a golf imaging device as it has been shown that at the time the invention was made, ultrasonic triggering was already well known in the art. To apply it as a triggering device with a well-known golf imaging system such as Chang would have yielded the predicable result of incorporating a golf imaging system that would be more resistant to the interference such as "sunlight" for optical devices that could have inhibited the system from triggering properly.

Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Hsu whose telephone number is (571)272-7148. The examiner can normally be reached on 9 :00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



RH

November 5, 2007



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